

Thomas Jefferson to Edmond C. Genet, June 17, 1793 , from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO THE FRENCH MINISTER J. MSS. (EDMOND CHARLES GENET)

Philadelphia June 17, 1793.

Sir, —I shall now have the honor of answering your letter of the 15th instant, and so much of that of the 14th (both of which have been laid before the President) as relates to a vessel armed in the port of New York and about to depart from thence, but stopped by order of the Government. And here I beg leave to premise, that, the case supposed in your letter, of a vessel arming for her own defence, and to repel unjust aggressions, is not that in question, nor that on which I mean to answer, because not having yet happened, as far as is known to the Government, I have no instructions on the subject. The case in question is that of a vessel armed, equipped, and manned in a port of the United States, for the purpose of committing hostilities on nations at peace with the United States.

As soon as it was perceived that such enterprises would be attempted, orders to prevent them, were dispatched to all the States and ports of the Union. In consequence of these, the Governor of New York, receiving information that a Sloop, heretofore called the *Polly*, now the *Republican*, was fitting out, arming, and manning in the port of New York, for the express and sole purpose of cruising against certain nations, with whom we are at peace; that she had taken her guns and ammunition aboard and was on the point of departure, seized the vessel. That the Governor was not mistaken in the previous indications of her object, appears by the subsequent avowal of the citizen Hauterive, consul of France at that port, who, in a letter to the Governor, reclaims her as “Un vaisseau armé en guerre,

Library of Congress

et pret à mettre à la voile,” and describes her object in these expressions: “Cet usage etrange de la force publique contre les citoyens d'une nation amie qui se retmissent ici *pour aller defendre leur frères,*” &c. and again “Je requiers, monsieur, l'autorité dont vous etes revetu, pour faire rendre à

des Français, à des alliés &c. la liberté *de voler au secours de leur patrie.*” This transaction being reported to the President, orders were immediately sent to deliver over the vessel, and the persons concerned in the enterprise to the tribunals of the Country, that if the act was of those forbidden by the Law, it might be punished, if it was not forbidden, it might be so declared, and all persons apprized of what they might or might not do.

This we have reason to believe is the true state of the case, and it is a repetition of that which was the subject of my letter of the 5th instant, which animadverted not merely on the single fact of the granting commissions of war, by one nation, within the territory of another, but on the aggregate of the facts; for it states the Opinion of the President to be “That the arming and equipping vessels in the ports of the United States, to cruise against nations with whom we are at peace, was incompatible with the sovereignty of the United States; that it made them instrumental to the annoyance of those nations, and thereby tended to commit their peace”—and this opinion is still conceived to be not contrary to the principles of natural law, the usage of nations, the engagements which unite the two people, nor the proclamation of the President, as you seem to think.

Surely not a syllable can be found in the last mentioned instrument, permitting the preparation of hostilities in the ports of the United States. It's object was to enjoin on our citizens “a friendly conduct towards all the belligerent powers,” but a preparation of hostilities is the reverse of this.

None of the engagements in our treaties stipulate this permission. The xviith article of that of commerce, permits the armed vessels of either party, to enter the ports of the other, and

Library of Congress

to depart with their prizes freely: but the entry of an armed vessel into a port, is one act; the equipping a vessel in that port, arming her, manning her, is a different

one, and not engaged by any article of the Treaty.

You think, Sir, that this opinion is also contrary to the law of nature and usage of nations. We are of opinion it is dictated by that Law and usage; and this had been very maturely inquired into before it was adopted as a principle of conduct. But we will not assume the exclusive right of saying what that law and usage is. Let us appeal to enlightened and disinterested Judges. None is more so than Vattel. He says L. 3. §. 104. “Tant qu'un peuple neutre veut jouir surement de cet état, il doit montrer en toutes choses une exacte impartialité entre ceux qui se font la guerre. Car s'il favorise l'un au préjudice de l'autre, il ne pourra pas se plaindre, quand celui-ci le traitera comme adhérent & associé de son ennemi. Sa neutralité seroit une neutralité frauduleuse, dont personne ne veut être la dupe.—Voyons donc en quoi consiste cette impartialité qu'un peuple neutre doit garder.

“Elle se rapporte uniquement à la guerre, & comprend deux choses, 1^o. Ne point donner de secours quand on n'y est pas obligé; ne fournir librement ni troupes, ni armes, ni munitions, ni rien de ce qui sert directement à la guerre. Je dis *ne point donner de secours*, & non pas *en donner également*; car il seroit absurde qu'un Etat secourût en même temps deux ennemis. Et puis il seroit impossible de la faire avec égalité; les mêmes choses, le même nombre de troupes, la même quantité d'armes, de munitions, &c. fournies en des circonstances différentes, ne forment plus des secours équivalents.” &c. If the neutral power may not, consistent with its neutrality furnish men to either party, for their aid in war, as little can either enrol them in the neutral territory, by the law of nations. Wolf §. 1174, Says, “Puisque le droit de lever des soldats est un droit de majesté, qui ne peut être violé par une nation étrangère, il n'est pas permis de lever des soldats sur le territoire d'autrui, sans le consentement du maître du territoire.” And Vattel before cited L. 3. §. 15. “Le droit de lever des soldats appartenant

Library of Congress

uniquement à la nation, ou au souverain, personne ne peut en envoler en pays erranger sans la permission du souveraine:—Ceux qui entre prenant d'engager des soldats en pays erranger sans la permission du Souverain, et en general quiconque débauche les sujets d'autrui, viole un des droits les plus sacrés du prince & de la nation. C'est le crime qu'on appelle *plagiat*, ou vol d'homme. Il n'est aucun Etat police qui ne le punisse tres sévèrement.” &c. For I chuse to refer you to the passage, rather than follow it thro' all its developments. The testimony of these, and other writers, on the law and usage of nations, with your own just reflections on them, will satisfy you that the United States in prohibiting all the belligerent powers from equipping, arming, and manning vessels of war in their ports, have exercised a right, and a duty with justice, and with great moderation. By our treaties with several of the belligerent powers, which are a part of the laws of our land, we have established a state of peace with them. But without appealing to treaties, we are at peace with them all by the law of nature. For by nature's law, man is at peace with man, till some aggression is committed, which, by the same law, authorizes one to destroy another as his enemy. For our citizens then, to commit murders and depredations on the members of nations at peace with us, or combine to do it, appeared to the Executive, and to those with whom they consulted, as much against the laws of the land, as to murder or rob, or combine to murder or rob it's own citizens, and as much to require punishment, if done within their limits, where they have a territorial jurisdiction, or on the high seas, where they have a personal jurisdiction, that is to say, one which reaches their own citizens only, this being an appropriate part of each nation on an element where all have a common jurisdiction. So say our laws as we understand them ourselves. To them the appeal is made, and whether we have construed them well or ill, the constitutional Judges will decide. Till that decision

shall be obtained, the Government of the United States must pursue what they think right with firmness, as is their duty. On the first attempt that was made the President was desirous of involving in the censures of the law as few as might be. Such of the individuals only therefore as were citizens of the United States, were singled out for prosecution. But

Library of Congress

this second attempt being after full knowledge of what had been done on the first, and indicating a disposition to go on in opposition to the laws, they are to take their course against all persons concerned, whether citizens, or aliens; the latter, while within our Jurisdiction and enjoying the protection of the laws, being bound to obedience to them, and to avoid disturbances of our peace within, or acts which would commit it without, equally as Citizens are.